

**DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
COMMUNITY ASSOCIATION MANAGERS
4 CCR 725-7**

EMERGENCY RULE

C RULES – LICENSING - OFFICE

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of emergency rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Director of Real Estate to promulgate rules, or to amend, repeal or repeal and re-enact the present rules related to community association managers.

- Section 1. Statement of Basis and Authority
- Section 2. Scope and Purpose
- Section 3. Applicability
- Section 4. C Rules – Licensing - Office
- Section 5. Effective Date

Section 1. Statement of Basis and Authority

The statutory basis for the rules titled Rules Regarding Community Association Managers is Part 10 of Title 12, Article 61, Colorado Revised Statutes, as amended.

Section 2. Scope and Purpose

The Director of the Division of Real Estate (“Director”) finds that immediate adoption of this emergency rule is imperatively necessary to comply with state law, including §§ 12-61-1001, C.R.S., et seq., (the “Act”) and that compliance with the rulemaking requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

As a result of the passage of HB 13-1277, the Act requires licensing for anyone who engages in certain defined activities of a “community association manager” relating to the management of a common interest community. The legislation empowering the Director to promulgate rules is effective January 1, 2015 and individuals needing to be licensed must do so by July 1, 2015. As a result, it is imperatively necessary that the Director promulgate rules pertaining to the requirements needed for licensure on an emergency basis.

The purpose of this emergency rule is to ensure compliance with §§ 12-61-1001, C.R.S., et seq., and is to effectuate the legislative directive to promulgate necessary and appropriate rules for the implementation of part 10 of Title 12, Article 61.

The specific purpose of the emergency rules is to promulgate rules pertaining to the education, testing, licensing, and insurance requirements needed for licensure.

Without the immediate adoption of the emergency rules, the public’s interest is not served. Wherefore, pursuant to § 24-4-103(6), C.R.S., the Director has stated needs to adopt these emergency rules.

Section 3. Applicability

The emergency rules govern community association managers who are subject to the requirements of Part 10 of Title 12, Article 61 of the Colorado Revised Statutes.

Section 4. C RULES: LICENSING – OFFICE

C-1) Individual proprietor must be sole owner.

A community association manager licensed as an individual doing business under a trade name must be the sole owner of that trade name.

C-2) Individual proprietor may not appear to be corporate.

A community association manager licensed as a sole proprietorship may not adopt a trade name which includes the following words: Corporation, Partnership, Limited Liability Company, Limited, Incorporated, or the abbreviations thereof.

C-3) Qualifications for community association management companies.

As set forth in § 12-61-1003(6), C.R.S., when a community association management company submits a license application to qualify as a community association manager, it must comply with the following:

- 1) Designate and maintain a qualified active manager for the community association management company who is responsible for management and supervision of the licensed actions of the company and all persons employed by, or acting at any time on behalf of, the company and who is personally responsible for the handling of any and all common interest community funds received or disbursed by the company pursuant to § 12-61-1003(6)(b) and (7); who has passed the examination for licensees set forth in the Act and these Director rules; and who is qualified to act as a community association manager under the Act and these Director rules.
- 2) If the community association management company is a corporation, it must certify that:
 - a) The corporation has been properly incorporated with the Colorado Secretary of State or is authorized to do business in Colorado, and is in good standing, proof of which must be included with the application;
 - b) If an assumed or trade name is to be used, it has been properly filed with and accepted by the Colorado Secretary of State, proof of which must be included with the application; and
 - c) The applicant has designated a qualified active manager who has been appointed by the corporation's board of directors to act as designated manager for the corporation.
- 3) If the community association management company is a partnership, it must certify that:
 - a) The partnership has been properly registered with the Colorado Secretary of State and is in good standing, proof of which must be included with the application;
 - b) If an assumed or trade name is to be used, it has been properly filed with the Colorado Secretary of State, proof of which must be included with the application; and
 - c) The applicant has designated a qualified active manager who has been appointed the designated manager for the partnership by all general partners or managers/officers of the partnership.

- 4) If the community association management company is a limited liability company, it must certify that:
 - a) The limited liability company has been properly registered with the Colorado Secretary of State and is in good standing, proof of which must be included with the application;
 - b) If an assumed or trade name is to be used, it has been properly filed with the Colorado Secretary of State, proof of which must be included with the application; and
 - c) The applicant has designated a qualified active manager who has been appointed the designated manager for the limited liability company by all managers, or if management has been reserved to the members in the articles of organization, by all members of the limited liability company.

C-4) Individuals employed by a community association management company or a common interest community.

Any community association management company, sole proprietorship, or common interest community that employs individuals who perform activities requiring a community association manager license pursuant to § 12-61-1001(3), C.R.S., must designate and maintain a qualified active designated manager.

C-5) Resident community association managers required to have office; exceptions.

Every resident Colorado community association manager must maintain and supervise a community association management practice with an office that is available to the public, except those community association managers registered in the Division as in the employ of a designated manager or those community association managers registered as inactive.

C-6) Designated manager availability.

Any community association manager licensed as a sole proprietorship or as a designated manager for a corporation, partnership, or limited liability company must be reasonably available to manage and supervise such community association management practice.

C-7) Community association manager license non-transferable.

No agreement will be entered into by any licensee whereby the licensee transfers or lends their name or license to another to avoid or evade any provision of the Act or these Director rules.

C-8) Corporate license name may not duplicate suspended/revoked license.

The Director may refuse to issue a community association manager license to a community association management company if the name of said company is the same as that of any other community association management company whose license has been suspended or revoked, or is so similar as to be easily confused with that of the suspended or revoked company by members of the general public.

C-9) No license name identical to one previously issued.

No community association manager license will be issued to a community association manager under a trade name, corporate, partnership or limited liability company name which is identical to another licensed community association manager's trade name, corporate, partnership or limited liability company name.

C-10) Community association manager activity only in trade name or full licensed name.

A community association manager may adopt a trade name according to Colorado law and such trade name will appear on the face of the license. However, pursuant to § 12-61-1003(8), C.R.S., such manager must conduct business only under such trade name, or conduct business under the entire name appearing on the face of the license. Community association managers, who are licensed under a designated manager that is doing business under a trade name, will be licensed under the entire name appearing on the face of the license.

C-11) Name rules.

Pursuant to § 12-61-1003(8), C.R.S., a person will not be licensed as a community association manager under more than one name, or conduct or promote business as a community association manager except under the name under which the person is licensed. However, the use of a trade name, with the permission of the owner of such trade, name may be used concurrently with the licensed name of the community association management company in the promotion or conduct of the licensed community association management business.

- 1) No licensee or community association management company will advertise or promote its business in such a manner as to mislead the public as to the identity of the licensed community association manager or company; nor may a portion of the licensed name of any community association manager or company be advertised or promoted in a manner which would mislead the public as to the identity of the licensed manager or company.
- 2) Any licensee or community association management company using a trade name, the use of which requires obtaining permission from another who has an existing and continuing right in that trade name by virtue of any state or federal law, will clearly and unmistakably include the licensee or community association management company name as registered with the Director in addition to the trade name in a conspicuous and reasonable manner in any of the following:
 - a) Advertising;
 - b) Business cards;
 - c) Letterhead;
 - d) Contracts or all other documents relating to community association management business; and
 - e) Signs displayed at a place of business.

C-12) Notice of termination; designated manager.

A community association management company and its designated manager both must immediately notify the Director in writing of the termination of the designated manager's status as designated manager for the company, or upon the designated manager's failure to comply with the Act or these Director rules. Unless a temporary designated manager license is obtained in compliance with the provisions of Rule C-13, upon such notification the designated manager, entity and all employed licensees will be placed on inactive status.

C-13) Temporary designated manager license.

Pursuant to § 12-61-1003(6)(c), C.R.S., a temporary designated manager's license may be issued to a community association management company to prevent hardship for a period not to exceed 90 days to the person so designated. No designated manager license will be approved unless the individual designated holds a community association manager license and meets all additional requirements pursuant to § 12-61-1003(6), C.R.S. and these Director rules.

C-14) Inactive license.

A community association manager license may be issued while on inactive status. No activities requiring a license may be performed while a license is on inactive status.

Section 5. Effective Date

This emergency rule is effective January 6, 2015.